



BellSouth Telecommunications, Inc.  
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Guy M. Hicks  
General Counsel

October 29, 1997

VIA HAND DELIVERY

David Waddell, Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

REC'D TN  
REGULATORY AUTH  
OCT 29 PM 4  
EXECUTIVE SECRETARY

Re: *Application of Electric Power Board of Chattanooga for a Certificate of Public  
Convenience and Necessity to Provide Intrastate Telecommunications Services*  
Docket No. 97-01488

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of the Petition of BellSouth Telecommunications, Inc. for Leave to Intervene in the above-referenced matter. A copy has been provided to counsel of record.

Very truly yours,

Guy M. Hicks

GMH:ch

Enclosure

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

IN RE: *Application of Electric Power Board of Chattanooga for a Certificate of Public Convenience and Necessity to Provide Intrastate Telecommunications Services*

Docket No. 97-01488

PETITION OF BELL SOUTH TELECOMMUNICATIONS, INC.  
FOR LEAVE TO INTERVENE

BellSouth Telecommunications, Inc., pursuant to T.C.A. §4-5-310 and T.C.A. §65-2-107 petitions the Tennessee Regulatory Authority (the "Authority") for leave to intervene in the above-captioned proceeding, and in support thereof states as follows:

1. Petitioner, a Georgia Corporation authorized to conduct and conducting a public utility business in the state of Tennessee, is engaged in furnishing exchange telephone service and intrastate (long distance) intraLATA telephone service in the state of Tennessee subject to the jurisdiction of the Authority and pursuant to T.C.A. §65-4-101 and T.C.A. §65-5-201, *et seq*

2. Recent legislation permits the municipal applicant, the Electric Power Board of Chattanooga, to provide certain telecommunications services subject to certain competitive safeguards. Pursuant to this legislation, the applicant seeks a certificate permitting it to provide intrastate telecommunications services in direct competition with the Petitioner. The Petitioner has a direct and substantial interest in the furtherance of fair competition and the manner in which the municipal applicant proposes to comply with the competitive safeguards and other requirements set forth in this new legislation codified principally at T.C.A. §7-52-401, *et seq*. A copy of the statute is attached hereto.

OFFICIAL FILE  
PLEASE

DO NOT REMOVE

3. Petitioner's legal interests may be determined in the proceedings and Petitioner's interests will not be adequately represented unless the Authority allows the petitioner to intervene.

4. Allowing Petitioner to intervene will not impair the interests of justice or the orderly and prompt conduct of these proceedings.

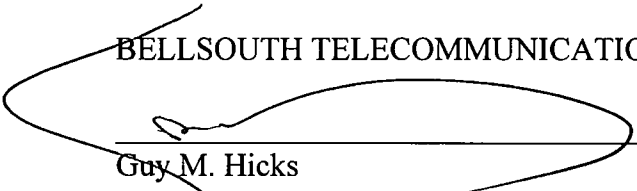
5. Petitioner respectfully requests that it be granted leave to intervene and participate as a party in the above-captioned proceeding.

WHEREFORE, Petitioner prays:

1. That it be permitted to intervene in this proceeding and participate as a party.
2. That Petitioner have such other and further relief to which it may be entitled.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.



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Guy M. Hicks  
333 Commerce Street, Suite 2101  
Nashville, Tennessee 37201-3300  
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BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

IN RE:       *Application of Electric Power Board of Chattanooga for a Certificate of Public Convenience and Necessity to Provide Intrastate Telecommunications Services*

Docket No. 97-01488

ORDER

This matter is before the Tennessee Regulatory Authority upon petition of BellSouth Telecommunications, Inc. for leave to intervene in the above-captioned proceeding. It appears to the Authority that Petitioner has an interest in this matter, and therefore, that it constitutes an interested party pursuant to the provisions of §§4-5-310 and 65-2-107. It appears to the Authority that the interest of justice and orderly and prompt conduct of the proceedings will not be impaired by allowing this intervention.

IT IS THEREFORE ORDERED,

1. That the petition of BellSouth Telecommunications, Inc. for leave to intervene in the above-captioned cause be, and the same is hereby GRANTED.
2. That the intervenor be and the same is hereby made a party to this proceeding and shall receive all copies of notices and orders and be permitted to participate in all aspects of the hearing including providing testimony and cross-examining witnesses.

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Chairman

ATTEST:

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lenge under Tenn Const , art XI, § 8 because,  
by its own terms, the 1969 statute was not  
intended to have mandatory, statewide applica-

tion Knox County ex rel Kessel v Lenoir City,  
837 S W 2d 382 (Tenn 1992)

**7-52-307. Payments to taxing jurisdictions.**

**Cited:** Knox County ex rel Kessel v Lenoir  
City, 837 S W 2d 382 (Tenn 1992)

**7-52-308. Operations in adjacent states.**

**Cited:** Knox County ex rel Kessel v Lenoir  
City, 837 S W 2d 382 (Tenn 1992)

**7-52-309. Distribution by private act or home rule or metropolitan government charter.**

**NOTES TO DECISIONS**

**1. Repealer Provisions.**

This section does have the effect of repealing the allocation provisions in private acts and charter provisions, but only those which "direct that the tax equivalent amount to be distributed to each taxing district is to be an amount arrived at by applying the current ad valorem tax rate in that district to the depreciated original cost of the electric system's tangible property " It was this qualified repealer pro-

vision to which the legislature had reference in § 7-52-302, when it stated an attempt to repeal "certain provisions" of private acts affecting distribution, "but not to repeal any other provisions of such private acts" Because Private Acts 1970, ch 205 does not utilize the formula proscribed in this section, its validity is not affected by the repealer provision in this section Knox County ex rel Kessel v Lenoir City, 837 S W 2d 382 (Tenn 1992)

**7-52-310. Repeal of conflicting provisions.**

**Cited:** Knox County ex rel Kessel v Lenoir  
City, 837 S W 2d 382 (Tenn 1992)

**PART 4—TELECOMMUNICATIONS SERVICES**

**7-52-401. Authority with relations to telecommunications equipment and services.** — Every municipality operating and electric plant, whether pursuant to this chapter or any other public or private act or the provisions of the charter of the municipality, county or metropolitan government, has the power and is authorized, on behalf of its municipality acting through the authorization of the board or supervisory body having responsibility for the municipal electric plant, to acquire, construct, own, improve, operate, lease, maintain, sell, mortgage, pledge or otherwise dispose of any system, plant or equipment for the provision of telephone, telegraph, telecommunications services, or any other like system, plant, or equipment within and/or without the corporate or county limits of such municipality, and, with the consent of such other municipality, within the corporate or county limits of any other municipality, in compliance with title 65, chapters 4 and 5, and all other applicable state and federal laws, rules and regulations. A municipality shall only be authorized to provide telephone, telegraph or telecommunications services through its board or supervisory body having responsibility for the municipality's electric plant A municipality providing any of the services

authorized by this section may not dispose of all or substantially all of the system, plant and equipment used to provide such services except upon compliance with the procedures set forth in § 7-52-132. Notwithstanding § 65-4-101(a)(2) or any other provision of this code or of any private act, to the extent that any municipality provides any of the services authorized by this section, such municipality shall be subject to regulation by the Tennessee Regulatory authority in the same manner and to the same extent as other certificated providers of telecommunications services, including without limitation rules or orders governing anti-competitive practices, and shall be considered as and have the duties of a public utility, as defined in § 65-4-101, but only to the extent necessary to effect such regulation and only with respect to such municipality's provision of telephone, telegraph and communication services. [Acts 1997, ch 531, § 2]

**Effective Dates.** Acts 1997, ch 531, § 15  
June 19, 1997

**Section to Section References.** This section is referred to in §§ 7-52-402 — 7-52-405

**7-52-402. Subsidies — Municipal costs.** — A municipality providing any of the services authorized by § 7-52-401 shall not provide subsidies for such services. Notwithstanding the limitations set forth in the preceding sentence, a municipality providing such services shall be authorized to:

(1) Dedicate a reasonable portion of the electric plant to the provision of such services the costs of which shall be allocated to such services for regulatory purposes, and

(2) Lend funds, at a rate of interest not less than the highest rate then earned by the municipality on invested electric plant funds, to acquire, construct, and provide working capital for the system, plant, and equipment necessary to provide any of the services authorized under § 7-52-401; provided, that such interest costs shall be allocated to the cost of such services for regulatory purposes. Any loan of funds made pursuant to this section shall be approved in advance by the state director of local finance and shall contain such provisions as are required by the state director [Acts 1997, ch. 531, § 3]

**7-52-403. Applicability to municipalities — Municipalities subject to regulatory laws and rules.** — (a) To the extent that it provides any of the services authorized by § 7-52-401, a municipality shall have all the powers, obligations and authority granted entities providing telecommunications services under applicable laws of the United States or the state of Tennessee. To the extent that such authority and powers do not conflict with the provisions of title 65, chapters 4 or 5, and any rules, regulations, or orders issued thereunder, a municipality providing any of the services authorized by § 7-52-401 shall have all the authority and powers with respect to such services as are enumerated in this chapter

(b) Notwithstanding the authorization granted in subsection (a), a municipal electric system shall not provide any of the services authorized by § 7-52-401 unrelated to its electric services within the service area of an existing telephone cooperative with fewer than one hundred thousand (100,000) total lines organized and operating under the provisions of title 65, chapter 29, and therefore shall adhere to those regulations of the 1995

Tennessee Telecommunications Regulatory Authority, which are applicable §§ 65-4-101 and 65-29-130

**7-52-404. Tax equivalent.** the services authorized by this section with respect to such services under part 3 of this chapter shall be considered equivalent payments only, such services shall be considered from such services shall be for regulatory purposes, a municipality shall be authorized by § 7-52-401 an amount for local, and federal taxes withheld by a nongovernmental corporation [Acts 1997, ch. 531, § 5.]

**7-52-405. Allocation of costs.** poses, a municipality shall be authorized by § 7-52-401:

(1) An amount for attachment to the highest rate charged by the comparable pole attachment company

(2) Any applicable right of first refusal required by state or local law for identical services. [Acts 1997, ch. 531, § 5.]

**7-52-406. Licensing laws and services.** — (a) Nothing in this section shall be construed to provide any service for which a license is required under title 62, chapter 32, part 3, to open for the provision of cable service for an internet service provider [Acts 1997, ch. 531, § 5.]

**7-52-407. Supersession.** conflicting provisions of general law shall prevail over charter provisions [Acts 1997, ch. 531, § 5.]

**Effective Dates.** Acts 1997, ch 531, § 15  
June 19, 1997

pose of all or substantially all of the provide such services except upon rth in § 7-52-132. Notwithstanding f this code or of any private act, to the ny of the services authorized by this ject to regulation by the Tennessee er and to the same extent as other ions services, including without limi- competitive practices, and shall be ublic utility, as defined in § 65-4-101, such regulation and only with respect hone, telegraph and communication

**Section to Section References.** This sec- tion is referred to in §§ 7-52-402 — 7-52-405

**Costs.** — A municipality providing any shall not provide subsidies for such s set forth in the preceding sentence, hall be authorized to. he electric plant to the provision of l be allocated to such services for

not less than the highest rate then ad electric plant funds, to acquire, or the system, plant, and equipment s authorized under § 7-52-401; pro- located to the cost of such services for ade pursuant to this section shall be or of local finance and shall contain ate director [Acts 1997, ch. 531, § 3.]

**Powers — Municipalities subject to** he extent that it provides any of the nicipality shall have all the powers, s providing telecommunications ser- l States or the state of Tennessee. To rs do not conflict with the provisions rules, regulations, or orders issued of the services authorized by § 7-52- rs with respect to such services as are

granted in subsection (a), a municipi- any of the services authorized by vices within the service area of an iver than one hundred thousand ting under the provisions of title 65, to those regulations of the 1995

Tennessee Telecommunications Act and rules of the Tennessee regulatory authority, which are applicable to the telephone cooperatives, and specifically §§ 65-4-101 and 65-29-130. [Acts 1997, ch. 531, §§ 4, 9 ]

**7-52-404. Tax equivalent payments.** — A municipality providing any of the services authorized by § 7-52-401 shall make tax equivalent payments with respect to such services in the manner established for electric systems under part 3 of this chapter. For purposes of the calculation of such tax equivalent payments only, the system, plant, and equipment used to provide such services shall be considered an electric plant, and the revenues received from such services shall be considered operating revenues. For regulatory purposes, a municipality shall allocate to the costs of any services authorized by § 7-52-401 an amount equal to a reasonable determination of the state, local, and federal taxes which would be required to be paid for each fiscal year by a nongovernmental corporation that provides the identical services [Acts 1997, ch. 531, § 5.]

**7-52-405. Allocation of costs by municipalities.** — For regulatory purposes, a municipality shall allocate to the costs of providing any of the services authorized by § 7-52-401.

(1) An amount for attachments to poles owned by the municipality equal to the highest rate charged by the municipality to any other person or entity for comparable pole attachments; and

(2) Any applicable rights-of-way fees, rentals, charges, or payments required by state or local law of a nongovernmental corporation that provides the identical services. [Acts 1997, ch 531, § 6.]

**7-52-406. Licensing laws not superseded — Applicability to cable services.** — (a) Nothing in this part shall be construed to allow a municipality to provide any service for which a license, certification, or registration is required under title 62, chapter 32, part 3.

(b) Nothing in this part or any private act, charter, metropolitan charter, or amendments thereto, shall allow a municipality, county, metropolitan government, department, board, or other entity of local government to provide any service for which a license, certification, or registration is required under title 62, chapter 32, part 3, to operate a cable system, as defined by § 7-59-201(2), for the provision of cable services, to provide pager service, or to operate as an internet service provider. [Acts 1997, ch 531, §§ 10, 12 ]

**7-52-407. Supersession of conflicting laws.** — This part supersedes any conflicting provisions of general law, private act, charter or metropolitan charter provisions [Acts 1997, ch 531, § 11 ]

**Effective Dates.** Acts 1997, ch 531, § 15  
June 19, 1997